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REMARKS

OF

HON. MR. FOOTE, OF MISSISSIPPI,

ON

The Plan of adjusting the questions growing out of Slavery, reported from the special committee of the Senate.

DELIVERED IN THE SENATE, MAY 15, 16, AND 20, 1850.

WEDNESDAY, *May* 15, 1850.

The Senate having under consideration the order of the day, to wit, the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and nothern boundaries—and the debate having proceeded as published in the Congressional Globe—

Mr. FOOTE said: It is with feelings of profound regret that I have witnessed the progress of a debate so little, as it seems to me, marked with that spirit of reciprocal moderation and forbearance so important to a pacific and satisfactory settlement of existing differences between the northern and southern sections of the Confederacy. There was a period in our legislative history—there have been occasions—when I thought it easy to perceive a disposition, extending through most of the free States of the North, and strongly manifested upon this floor also, to assail the rights of the South with oppressive and unauthorized legislation, and to harass the sensibilities of southern men with gross discourtesy and insult. On such occasions I have been, like others, provoked to the employment of retaliatory language, and to the declaration of sentiments which it is painful now even to be compelled to bear in remembrance. I had hoped that a season had at last arrived when we would be able to consult together calmly, and to interchange our views freely without resorting at all to the language of crimination and censure; and I trust that what we have just witnessed will turn out to be nothing more than the effervescence of the moment, to be presently succeeded by feelings more propitious to profitable discussion. The specimen of heated declamation with which the honorable Senator from Florida [Mr. YULEE] has so unseasonably supplied us——

Mr. YULEE. If the honorable Senator will permit me, I will say that I had not the slightest desire to offer reproach. On the contrary, I have great respect for the motives which influence the committee in their labors. I am sure it would be very far from my purpose, and very far from any feelings which animate me, to express as strongly as might be, and as plainly as might be, my own opinions in reference to this matter.

Mr. FOOTE. I do not at all doubt the honorable Senator's disinclination, as just avowed by him, to awaken unpleasant feelings in any quarter, and I wish I could say that his language was in perfect harmony with his intentions; but I must yet insist that what he has thought proper to utter on this occasion is, in my judgment, far from being of a complaisant and conciliatory character, as I do not doubt he will himself discover to be the case, when he shall read a faithful report of his spoken words.

Mr. President, I am not at all surprised that the Senator from Florida has been betrayed into the use of somewhat exorbitant language, nor that he should have evinced that special irritability of feeling which has marked all that has fallen from him in the course of this debate. He has just now voted for laying the whole bill upon the table, upon a motion which was designed to be fatal to this measure, with a view to bringing forward the California bill as a separate proposition. For weeks have we been struggling to ward off from the South the dishonor and injustice which we believed would result from the admission of California separately, apart from those compensating advantages which we believed would result from a general plan of compromise, the adoption of which might permanently settle all those distracting questions which have so long disturbed the public quiet, and placed the vital interests of the South in such imminent danger. We had, after passing through scenes of excitement such as the country has seldom witnessed, at last succeeded; the California bill had been blended with a bill for establishing territorial governments simply, *without the Wilmot proviso*, together with a proposition to establish the boundary line between Texas and New Mexico. Upon the motion to lay the joint bill upon the table, with a view to taking up the California bill by itself, the Senator from Florida voted with the adversaries of the South, and was very near being the only southern Senator who did so. Who could doubt the honorable Senator being by no means in a compromising mood, after thus refusing to the friends of the present measure even the ordinary facilities for ameliorating its provisions before the period for its final adoption or rejection should have arrived? Who can feel the least surprise at his having given us a speech so much more declamatory than argumentative, and abounding with phraseology anything but respectful and gracious? Let it never be forgotten, that it is the Senator from Florida who has so unnecessarily and unseasonably attempted to close the door of compromise; that it is he who has virtually said to our northern brethren: "I will not

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interchange fraternal sentiments with you, with a view to the adjustment of questions which have placed the Union itself in serious danger; I will not participate in a plan of settlement which is intended to rescue the South itself from spoliation and ravage; I prefer discord to harmony; scenes of blood and violence to domestic peace and security, and the undisturbed enjoyment of those free institutions which our noble forefathers have provided for us."

Mr. President, I shall endeavor, in what I have to say, to avoid the least approximation to the example which has been set us by the honorable Senator from Florida, and shall exert myself as zealously as possible in that work of pacification which is now in such hopeful progress. The question presented to us by the amendment of my honorable colleague is certainly one of some delicacy. The points which have been drawn into discussion, in connection with that amendment, are both interesting and important, but certainly not at all new, either to the Senate or to the country. There are but few of our intelligent citizens who have not made up, already, a definite and satisfactory opinion upon the great question whether the Mexican laws abolishing slavery are now rightfully in force in those territorial possessions recently acquired from the Mexican republic; and most of them have made up their minds also touching the probability of African slavery going into New Mexico, Utah, and California, if unprohibited by law. Our able jurists North and South have argued the legal question, both orally and in writing, and there seems to be about as much diversity of opinion in regard to it as has ever marked a controversy of this character. It is my own good or ill fortune to have adopted views of a very ultra southern cast, both in relation to the present validity of the Mexican laws referred to, and in reference to the adaptedness to slave labor of the whole of that vast region stretching from what were until lately the western limits of the United States to the remote Pacific coast. I know that the opinions of the honorable Senator from Kentucky [Mr. CLAY] have been expressed on several occasions in opposition to those which I entertain, both upon the question of law and fact. Nor do I attach only slight importance to these opinions of the honorable Senator from Kentucky. His years, his high character, his extended influence, impart to his opinions, upon all questions connected with the administration of our public concerns, an imposing dignity of which I am most profoundly sensible. But, sir, high as is my respect for the intellectual faculties of the honorable Senator from Kentucky and his public character, I cannot unite with the honorable Senator from Florida in that conclusion to which he seems to have arrived, that the simple enunciation of his views by the Senator from Kentucky, in the course of debate here, is sufficient to settle at once any question concerning which he may be called upon to pronounce, and that the conclusions of his mind, when once solemnly declared, carry with them such irresistible *authority* that it is both presumptuous and vain for any other human being to gainsay them. This is a sort of deference that I have never yet rendered to any man, living or dead, and which I should be somewhat ashamed to avow, even were I capable of feeling it.

I cannot take it for granted, as the Senator from Florida seems to do, that if we adopt this measure of compromise the opinion of the honorable Senator from Kentucky, touching the validity of the Mexican laws abolishing slavery in our newly-acquired territories, will at once become the universal opinion of the country, and even so far operate towards the settlement of the question practically against the South as to call for special preventive legislation on the part of Congress. After all, the honorable Senator from Kentucky is but a single individual; a highly distinguished one truly, and as such entitled to great consideration. But he is not a judicial officer for the decision of the question referred to; and were he even upon the bench, it would be still possible for him to err in deciding it. Judges have often done so heretofore; and we should not forget that Blackstone has told us that the opinion of the court and the law are not convertible terms, since it oftentimes happens that the judge mistakes the law.

But, sir, has the Senator from Florida forgotten that a large number of gentlemen of the legal profession, as eminent as any jurists in America, have asserted it to be their opinion that the treaty of Guadalupe Hidalgo, coupled with the act of conquest, carried the Constitution of the United States, with all its high guarantees, into all the ceded territory, and that thus the Mexican laws were at once repealed, by reason of their inconsistency with the organic law of the Republic? I, at least, have not forgotten the able debates on this question which have occurred, at different periods, in the two Houses of Congress. I yet bear in vivid remembrance the able, unanswered, and, in my judgment, unanswerable argument of the honorable Senator from Georgia, over the way, [Mr. BERRIEN,] made in this body, when this point was comparatively new among us. I recollect still more freshly a second argument from the same gentleman, only a month or two since, in direct response to the honorable Senator from Kentucky himself, and in which, as I think, and as southern men have generally thought, he made good all the positions which he assumed. But has the honorable Senator from Florida forgotten the potent argumentation upon this question with which we have been favored at different times, by the honorable Senator from South Carolina, [Mr. CALHOUN,] now no longer among us? Has he forgotten how strongly he expressed himself, on all occasions, upon this point? Why, sir, we cannot forget—I trust that none of us ever will cease to remember—that scene in this Chamber when the lamented personage referred to made the last declaration of his opinion touching the validity of these Mexican laws, which the honorable Senator from Florida seems to suppose have recently acquired a sort of posthumous vitality. It was when the honorable Senator from Massachusetts had concluded his late masterly speech upon the Wilmot proviso, and other kindred topics, that the illustrious statesman alluded to rose, and, with a scowl of manly indignation which imparted a peculiar and irresistible energy to his words, denounced what he described as "the consummate folly of citing the Mexican law prohibiting slavery in New Mexico and California."

Sir, I agreed with this great man then as to the nullity of the Mexican law prohibiting slavery. I agree with him yet; for in the tomb he is as high authority—yea, higher than he was in life. I

solemnly believe that there has been no Mexican law since the completion of our territorial conquests in that part of the world which could offer the least impediment to our slaveholding population of the South in any attempt which they might feel inclined to make to enter within the limits of California and New Mexico, attended by their slaves as property, and as property, too, secured by the most effectual of all guarantees—to wit, that of the Constitution of the Republic itself. Such is the opinion, I am persuaded, of every member of that very able bar who control the public judgment in regard to such questions in the State which I have the honor in part to represent upon this floor. Such was the deliberately expressed opinion of our Mississippi Southern Convention, which assembled last autumn, the proceedings of which have been several times brought to the special attention of this body by my honorable colleague and myself. Knowing these facts, it was but natural that I should feel a little surprise that the honorable Senator from Florida should intimate his apprehension that the present state of the law in New Mexico and Utah was such as to make it indispensably necessary that Congress should interfere and afford special protection to slave property in those territories, in order to save it from destruction by the operation of Mexican laws, which we have been all along thinking and contending were absolutely defunct and inoperative.

Sir, I am deeply grieved at beholding the attempt which seems to be making in certain quarters to hatch into existence a sort of southern Wilmot proviso. Believing, as I do, most firmly, that Congress has no authority to legislate on the subject of slavery in the territories—no more than it has to decree the abolition of slavery in the States themselves—I am inexpressibly pained to see the doubt which is about to be thrown upon this point by the action of southern men themselves. To claim that Congress shall legislate for the admission of slavery into the territories, or that we shall legislate specially for the *protection* of this institution therein, appears to me to assert a power in Congress which, in its future exercise, cannot but be fatal to the institution of slavery, wheresoever existing. To urge that such an exercise of power by Congress is necessary to the introduction of slaves into the territories, without which they must be subject to confiscation, is to admit, by the plainest implication, the entire want of any *constitutional* right on the part of the slaveholders of the South to go into these territories, attended by their slaves, and to claim their recognition as property. It is simply the grossest absurdity to suppose that a purely constitutional right can need the countenance and sanction of an act of ordinary legislation to give it validity. The Constitution being the paramount law, no act of Congress can impart to it the least additional potency; and to seek such puny aid is to treat the organic law of the land with a species of contempt which seems to argue at least a gross confusion of ideas. When the Senator from Florida asks protection for slave property in the territories, he plainly calls in question the right of the owner of slaves to carry them as such into the territories, whilst the present legal regulations continue; for, if no laws now exist therein prohibiting slavery, which are not themselves invalid, then we are not in the least degree in need of the amendment urged upon us by him. The very terms used by the honorable Senator from Florida are to me most alarming. He demands a law *preservative* of slavery in the territories; he cries out for *concessions* in regard to slavery to be made by Congress to the South, and complains most vehemently that the honorable Senator from Kentucky has avowed his unwillingness to vote for a law for the extension of slavery. What! says he, is the Senator from Kentucky not willing to aid in extending slavery to the territories? Does he so abhor the system that he is unwilling to extend it? Does he regard it as of a nature so contaminating that its extension would be to dishonor and degrade the whole territorial surface over which it might spread itself? Well, sir, I confess that this is very strange language to me, coming as it does from one of the signers of our famous Southern Address, from the pages of which I beg leave to read a few lines. What I cite will be found upon the 8th and 9th pages of the Address:

"We do not deem it necessary, looking to the object of this address, to examine the question so fully discussed at the last session, whether Congress has the right to exclude the citizens of the South from immigrating with their property into territories belonging to the confederated States of the Union. What we propose in this connection is, to make a few remarks on what the North alleges, erroneously, to be the issue between us and them.

"So far from maintaining the doctrine, which the issue implies, we hold that the Federal Government has no right to extend or restrict slavery, no more than to establish or abolish it; nor has it any right whatever to distinguish between the domestic institutions of one State, or section, and another, in order to favor the one and discourage the other. As the federal representatives of each and all the States, it is bound to deal out, within the sphere of its powers, equal and exact justice and favor to all. To act otherwise, to undertake to discriminate between the domestic institutions of one and another, would be to act in total subversion of the end for which it was established—to be the common protector and guardian of all. Entertaining these opinions, we ask not, as the North alleges we do, for the extension of slavery. That would make a discrimination in our favor, as unjust and unconstitutional as the discrimination they ask against us in their favor. It is not for them nor for the Federal Government to determine whether our domestic institution is good or bad, or whether it should be repressed or preserved. It belongs to us, and us only, to decide such questions. What, then, we do insist on is, not to extend slavery, but that we shall not be prohibited from immigrating with our property into the territories of the United States because we are slaveholders; or, in other words, that we shall not on that account be disfranchised of a privilege possessed by all others, citizens and foreigner, without discrimination as to character, profession, or color. All, whether savage, barbarian, or civilized, may freely enter and remain, we only being excluded."

Yes, sir, this is the precise language of our own far-famed Southern Address. You perceive that its author treats the charge of our being desirous of extending slavery by congressional legislation as a gross slander upon the South. Yet the honorable Senator from Florida not only now contends that this shall be done, but complains most vehemently that others will not join him in his surprising demand. The Southern Address accuses the North of misstating the issue between it and the South. A southern man, this moment in our hearing, has made the same presentation of the sectional issue which the Southern Address denounces as a misstatement of that issue. The honorable Senator from Florida contends that Congress is bound to pass laws *preservative* of slavery. The address says: "It is not for them (the northern people) nor for the Federal Government to 'determine whether our domestic institution is 'good or bad, or whether it should be repressed

'or *preserved*." Such are a few of the amusing inconsistencies into which the honorable Senator from Florida has had the fortune to involve himself upon this occasion.

For my part, Mr. President, I feel no particular desire that any restriction whatever should be imposed by us upon the territorial governments in regard to legislating on the subject or slavery. I will state my reasons for feeling this indifference. I am not of opinion that these governments would have a right to legislate for the extension or for the abolition of slavery, even though no prohibition should be imposed upon them. In this opinion I may be regarded by some as a little ultra; but I have adopted it deliberately, and I certainly consider it as quite capable of being maintained by fair argument. I admit as freely as any one, not excepting my honorable friend from Michigan, [Mr. Cass,] that all just government arises from the consent of the governed; that every community, whether numbering five hundred or five hundred thousand, has a right to adopt such social regulations for its own protection and preservation as may be actually necessary to the attainment of the high purposes named; but yet I contend that no regulation, not indispensably necessary to the self-preservation of such community, can be legitimately adopted, the adoption of which involves the destruction of important rights of other communities or individuals, wheresoever existing. Apply these principles to the people inhabiting our territories. They have a right to institute a government for their own self-protection. Indeed, I have always thought that it is by them alone that legitimate government, as such, can be established; though long acquiescence in the exercise of such a power on the part of Congress may perhaps justify its exercise now, under such circumstances as those which at present surround us. But then the sovereign States of this Union have a right to enjoy and dispose of the whole territorial domain of the Republic, and the citizens of all the States have a right to equal participancy in the enjoyment thereof, which cannot be either denied or contravened without the grossest injustice. The citizens of all the States have a right to remove within the limits of these territories with any property which they possess, and which is recognized by the Constitution of the Union, either generally or specially, and to demand recognition and protection of it as such from the territorial government, so soon as it shall have been established. The abolition or exclusion of slavery from the limits of the territory, is not at all indispensable to the needful ends of government. Therefore, the territorial government, established, as it must be, under the paramount authority of the Federal Constitution, can have no authority to interpose impediments to the enjoyment of the full rights of property in slaves, as secured by the Constitution, but is bound to consider itself as under the most binding obligation to preserve such rights of property inviolate, to the full extent of its capacity to do so. Entertaining this view of the matter, I confess that I can see no necessity for any restriction being imposed by Congress upon the territorial government about to be established "in respect to the system of African slavery." If it should undertake to legislate for the prohibition or exclusion of slavery, such legislation would, in my judgment, be a mere nullity; and so would the courts of the country be bound to pronounce, were the question raised before them. If territorial legislation, *protective* of slavery, should be subjected to the same test, I cannot doubt that such legislation would be held valid. It really, therefore, does seem to me, I repeat, much better to adopt no restriction upon this subject at all, and to leave the whole subject to the territorial governments and the courts.

Certainly, if climate, soil, and mineral productions are such in the territories to be supplied with governments as to make the introduction of slaves desirable, it is better for the South that no restriction should be imposed; for there is no instance in this hemisphere of slave labor being found highly profitable in which it has not been introduced, if legal barriers to its introduction were not provided. If it should be introduced, it might be found expedient to legislate for its protection and cherishment, which would be, perhaps, more or less obstructed by any restriction upon territorial legislation which could be devised. On the other hand, if climate, soil, and mineral productions are of a nature to make slaves not at all desirable on the score of pecuniary profit, they would certainly never be introduced; and therefore the restriction would be wholly unnecessary. In any point of view I should prefer a simple territorial government without the Wilmot proviso, leaving to the people who inhabit the territories the power to regulate all their domestic concerns in a manner conformable to the Federal Constitution. Yet if my friends from the South, with one of whom, as a member of the Committee of Thirteen, the particular clause under consideration is said to have originated, conclude to insist upon some restriction upon territorial legislation being imposed by Congress, I, who really am more inclined to aid in securing a settlement of all existing questions upon honorable and satisfactory terms, than solicitous to have the whole of my own particular views embodied in the plan of compromise, shall be willing to vote for the restrictive clause contended for in almost any form which it can be made to assume. I beg leave to suggest, though, that, if we decide not to retain the original words now proposed to be stricken out, instead of adopting the amendment of my honorable colleague, which seems to me not to be exactly as explicit as I should wish it to be, we insert these words, or words tantamount thereto: "either admitting or excluding African slavery." This change in the phraseology of the bill will not at all alter its meaning, but might avoid misinterpretation—misinterpretation to which I know the present phraseology has been already subjected. I am sure that I could confidently appeal to all the members of the Committee of Thirteen upon this point, and obtain from each of them a declaration that what they meant to do was simply to prevent the territorial government from legislating either for the admission or exclusion of slavery; and, in fact, these will be found to be the very words employed by the honorable Senator from Kentucky, on Monday last, in exposition of this part of the plan of compromise. [Here Mr. Clay, Mr. Cass, and Mr. Downs, all nodded assent.]

Before I bring these rather desultory remarks to a close, it is due to the honorable Senator from Florida that I should notice a fact in his own

political history of which he appears to have become strangely oblivious. That gentleman was one of the most zealous champions of what was known among us, two years ago, as the Clayton compromise bill; which bill contained no such provision for the special recognition of slave property in the territories as that which he now advocates. Yet the honorable Senator from Florida was then, as I have said, its earnest champion, and united with me and others in censuring those who defeated it in the House of Representatives. Then the honorable gentlemen, following the lead of the venerable Senator from South Carolina [Mr. CALHOUN]—*Teucro duce*—was perfectly content with providing governments for the territories, without a word being said in reference to slavery of the character now demanded by him—relying upon the courts for the final adjudication of the great question involved. Since that time he has seen new lights. The doctrine of the Wilmot school of politicians appears to have arrayed itself in new terrors to his fancy, and he now not only demands special safeguards against territorial legislation, but insists that Congress shall legislate on the subject of slavery for the protection of the South. Is it possible that the honorable Senator can fail to perceive the egregious inconsistency of his own course? Is he blind enough not to discern the danger which lurks in the proposition which he now advocates? Can he doubt that if we once allow Congress to legislate on the subject of slavery at all, the whole system of African slavery, as it now exists in the South, will be speedily overwhelmed by that tide of abolition which the sagacious statesmen of the South have been constantly struggling to repel? Indeed, I am grieved that this attempt to enlist Congress in a course of legislation on the subject of slavery in the territories of the Union, should have originated with a southern Senator.

Mr. YULEE. I shall trespass but a very few moments upon the attention of the Senate. I shall not engage in any controversy with the Senator from Mississippi respecting the consistency of my present position and the views I express with any part of my previous action. The opinions and course of one so humble are not important enough to the country or to this body to be worthy of discussion here. I am content to believe that there is entire harmony in the opinions I have entertained upon the issues which divide the two sections from their inception, and will leave it to those who may find it deserving their time to scan the record of my course.

I will prefer to address myself directly and singly to the precise question before the Senate. Sir, the Senator, as I conceive, has not touched the argument of the remarks which I offered. What was it? I was seeking to discover whether there was in the section under consideration any concession to the South. I pointed first to the opinion expressed by the Senator from Kentucky, who was chairman of the committee, as indicating that it was not the intention of the committee to give any distinct recognition to the right of Southern emigrants to be protected in their slave property within the territories created by the bill, so far as the phraseology of the section would operate; and, next, I declared that, if it was the purpose of the section simply to throw our people upon the assertion of their rights, under the Constitution, where the Mexican laws were in conflict, then it offered no concession at all, for it gave us nothing more than we have now without the bill of compromise. I proposed thus to show that this bill had not the character of a compromise, if nothing more was meant than was stated by the chairman. That, sir, was the gist of the brief argument I offered; and that view of the question has not, I repeat, been touched by the Senator from Mississippi.

I am quite aware that there are differences of opinion with regard to the extent to which the Mexican laws operate in the lately-acquired territories. I know opinions differ as to whether the Mexican laws inhibiting slavery belong to the class denominated political, or to those which are municipal, and whether the casual opinions expressed by the Supreme Court, which have been often referred to in this body, reach these laws. Why, sir, if the opinion of one so humble had been worthy to be borne in mind, the Senator from Mississippi might have recollected, that at an early period of the controversy, I endeavored in my humble way to express my own judgment against the legal continuance of the Mexican laws abolishing slavery, after the jurisdiction and sovereignty of the United States once took effect in the newly-acquired territories.

But, sir, however that may be, it seems to be foreign to the intention of the committee to give us in this bill any distinct declaration of our right to be protected in our property. Well, now, what is it that I have demanded? I have demanded that if the South is required to concede the admission of California, and if all the other concessions required of us are to be made, at least the North shall concede a distinct, unequivocal, unmistakable, and palpable recognition of their full right to colonize in these and other territories with their slaves. That is all. And I say that unless this recognition of right is made distinctly and palpably, there is no concession, and the bill leaves our rights where they are now—to be contested at the private cost and hazard of those of our emigrants who may find themselves involved in the meshes of this disputed right.

Now, sir, a single remark in respect to the allusion which the Senator made to the Southern Address. I am happy to learn from him that he desires to stand now where he did when he united in sanctioning that address, and that he will abide the principles promulgated in it. I am glad to be able to say to him that I, too, adhere to that platform, and will continue to stand there with him. But he will find, upon further consideration, that there is a very wide difference between the power to inhibit or establish slavery upon the one hand, and the duty of the Government to *protect* this, no less than other descriptions of property, everywhere within the territorial jurisdiction of the United States, on the other hand.

Mr. HALE. Mr. President——

Mr. FOOTE. I am sure that the honorable Senator from New Hampshire will give me an opportunity to reply.

Mr. HALE. It is so rarely that the honorable Senator from Mississippi asks that favor of me that I will accord it to him. [Laughter.]

Mr. FOOTE. I thank the honorable Senator for his courtesy in yielding the floor. Mr. President, I regret that I have not the happiness to harmonize in opinion with certain worthy mem-

bers of this body with whom I have been in the habit heretofore of cooperating. But, whatever difference of opinion may exist between us, I trust that no unkindness or estrangement of feeling will flow therefrom. I am resolved, at any rate, that it shall not be my fault if angry collisions and permanent separation shall take place between those who have been heretofore friendly and united in sentiment and in action. Being assured that my own motives are such as should guide my conduct at this moment in the very responsible position which I occupy, I shall not be over sensitive to anything which may be said in opposition to my views; and I shall not easily take it for granted that any of those southern Senators who may be found voting for amendments to the bill which I cannot sanction, have been actuated in introducing them by sinister motives of any sort. A fair and manly opposition to the measures under consideration, in all its stages, was to be expected on the part of those who may not approve it; though I acknowledge that I can see very little in it to cause alarm in the bosoms either of northern or southern Senators. I trust that it will be taken in no offensive sense if I declare my convictions that if this plan of compromise shall be defeated by the action of southern gentlemen, and we have California admitted as a separate measure, those who shall be understood to have been efficiently instrumental in bringing about this result will have an amount of responsibility thrown upon them very difficult to be met. I hope that they will yet pause before they resolve to reject an opportunity of quieting the country and settling all the questions which now disturb its repose, upon terms alike honorable to both sections of the Confederacy.

Mr. F. gave way for a motion to adjourn.

THURSDAY, *May* 16, 1850.

The same subject being under consideration—

Mr. FOOTE continued his remarks as follows:

Mr. President, I stated, on yesterday, in response to the Senator from Florida, the views which I entertained touching the question which has been so freely discussed on this occasion, in regard to the validity, at the present time, of the Mexican laws abolishing slavery in our newly-acquired territories. I reasserted the doctrine promulgated in the Southern Address, and endeavored to show that the Senator from Florida had placed himself in conflict with that doctrine. I cited as authority especially held in respect by me the address put forth by the convention, lately held in the State of Mississippi, out of whose proceedings originated the scheme of the Southern Convention shortly to assemble in Nashville. I stated what I understood to be the opinions, on various occasions declared here by several distinguished members of our body, including the late illustrious Senator from South Carolina, [Mr. CALHOUN,] who, whilst living, enjoyed so much of the public respect, and whose character and sage teachings come to us now, as it were, canonized from the tomb. In confirmation of all that I have heretofore said upon this subject, and with the view of effectually relieving the uneasiness which seems to oppress the mind of the Senator from Florida, in regard to the overwhelming influence which he fears is to be exerted upon the public judgment of the country by the opinion expressed by the honorable Senator from Kentucky, [Mr. CLAY,] in favor of the validity of these Mexican laws, I will now read a short extract from that admirable address to the people of the southern States, which emanated during the last summer from the pen of one to whose authority, when living, the Senator from Florida was understood to pay more than ordinary deference. I allude to Mr. Calhoun:

"There is another error akin to this, that the Mexican law abolishing slavery is still in force in New Mexico and California, when not a particle of its authority or sovereignty remains in either. Their conquest by us, and the treaty that followed, extinguished the whole, and with it annulled all her laws applicable to them, except those relating to such rights of property and relations between individuals as may be necessary to prevent anarchy; and even these are continued only by *sufferance*, and on the implied *authority of the conquering country, and not the authority of the conquered*, and only from the necessity of the case. Her laws abolishing slavery are not embraced in the exception, and, if it were, it would be taken out of it, as the assent of Congress could not be implied to continue a law which it had no right to establish.

"But still higher ground may be taken. The moment the territory becomes ours, the Constitution passes over and covers the whole, with all its provisions, which, from their nature are applicable to territories, carrying with it the joint sovereignty and authority of each and all the States of the Union, and sweeping away every Mexican law incompatible with the rights, property, and relations belonging to the citizens of the United States, without regard to what State they belong, or whether it be situated in the northern or the southern section of the Union. The citizens of all have equal rights of protection in their property, relations, and person, in the common territories of each and all the States. The same power that swept away all the laws of Mexico which made the Catholic religion the exclusive religion of the country, and which let in the religion of all denominations—which swept away all the laws prohibiting the introduction of property of almost every description, some absolutely, and others under the condition of paying duties, and letting them in duly free until otherwise provided for, swept that which abolished slavery, and let in property in slaves. No distinction can be made between it and any other description of property or thing, consistently with the Constitution and the equal rights of the several States of the Union and their citizens."

Mr. President, I have not concurred with some of my friends upon this floor, and elsewhere, who have from time to time expressed strong dissatisfaction and regret at the conflict of opinion which has arisen among the distinguished statesmen and jurists of the Republic, in the two opposite sections of the Union, in regard to the validity of the Mexican laws abolishing slavery. On the contrary, I have been gratified to discover that this diversity of opinion existed, because from it I have felt authorized to deduce the strongest hopes of the ultimate adjustment of that fierce controversy which has so long kept the country in a state of painful uncertainty. Permit me to explain a little upon this point. Whilst northern men continue to entertain the opinion that domestic slavery is already shut out by existing laws from our recently-acquired territories, they will feel strongly inclined to unite with the distinguished Senator from Massachusetts in recognizing the Wilmot proviso as a mere abstraction, unnecessary to be adopted, and will confidently rely upon the judicial tribunals of the country for the final decision of this question, should it arise for adjudication; whereas, southern men, entertaining an opposite opinion—regarding these same Mexican laws as already abolished and rendered inoperative—will with equal confidence rely upon the same judicial tribunals for adjudication in favor of the South. Thus the two extremes can well meet upon the middle ground of the Constitution, and, as patriots, be able to cooperate in the establishment of territorial governments, with-

out any special reference in the law creating them to the subject of African slavery—leaving the whole matter to be adjusted as, in a Republic like ours, all questions of this kind should be—by the regularly-constituted tribunals of the nation.

On yesterday, Mr. President, I avowed the doctrine that the people of the territories have a right to establish governments for their own protection, without being specially authorized to do so by an act of Congress; at the same time declaring that in thus proceeding to establish government, they would be bound to manifest a proper respect to all the fundamental principles embodied in the Federal Constitution. Let me repeat the declaration that, in my judgment, the Constitution of the republic imposes the only restriction to their action on this subject to which they can properly be subjected; within the limits of the Constitution they may devise just such a government in all respects as they may conceive to be necessary for their own safety and happiness. But, inasmuch as the abolition or exclusion of slavery is not necessary for this purpose, and as the right to hold slaves as property is formally guarantied by the Constitution, no territorial government thus formed could be justly regarded as having authority to legislate adversely in any respect to this important interest, and all such legislation would be necessarily invalid; whilst legislation designed simply to protect and preserve this institution, being of a nature not repugnant to the Constitution, would be entitled to respect and obedience. Holding these general views as to the inherent right of the people to establish a government for themselves—in support of which I shall presently cite a very high authority, which seems to have been heretofore strangely overlooked—I cannot perceive the necessity or propriety of demanding from Congress a special recognition of the right of slaveholders to go into the territories, attended by their slave property, and to claim the protection of law in its behalf after its having been thus introduced. What the Constitution has secured effectually Congress cannot make more secure. To attempt it would be but to draw our constitutional rights into question: and I must repeat my regret that the Senator from Florida has, by insisting upon the congressional interposition which he has claimed, more or less detracted from those weighty authorities in support of our rights, which otherwise would be held undeniable.

[Here Mr. Foote was interrupted by Mr. Yulee, who suggested that he had been misunderstood in regard to what he had said touching the necessity of having a special provision for the protection of slavery in the Territories. A colloquy ensued, after which Mr. Foote resumed, as follows:]

Well, Mr. President, I will dismiss this matter for the present. I recollect very well what the Senator said; but certainly if he is disposed now to recall it or explain it away I shall be more than content. Indeed, I should like to know that he had become a thorough convert to the views stated by me on yesterday. I was proceeding, when interrupted, to introduce what I denominated high republican authority in support of the general views insisted upon by myself and others here touching the inherent right of the people to establish a government for themselves; and you will perceive presently, Mr. President, that it was with good reason that I spoke of the authority referred to as of a truly republican cast. Let me state one or two particulars here by way of introduction. We all recollect that in the year 1824 a presidential election occurred, at the end of a political canvass of quite an exciting character, and which may be said to have been in progress for a year or two preceding. There were four candidates in the field, and among them the late John Quincy Adams. Whatever opinions Mr. Adams may afterwards have imbibed, and however eccentric he may have been in his public course whilst a member of the House of Representatives, all must admit that in 1824, and for some years before, he had been recognized as a prominent and influential member of the Republican party, and as such had been associated with such personages as Jefferson, Madison, Monroe, and others; enjoying, in fact, at the time, the entire confidence of the Republican party of the country. Indeed, in 1824 the Federal party seemed to have entirely lost its identity, and no longer to possess a substantive and distinct existence. The year previous to the presidential election referred to, was occupied very actively by the friends of the various presidential aspirants in efforts to conciliate public feeling towards the claims of him who chanced to be the candidate of their choice. In Virginia, it is well known, that extraordinary efforts were made by several distinguished personages, including that sound republican statesman, John Taylor, of Caroline, to secure the electoral vote of that State to Mr. Adams, who was supposed, by Mr. Taylor and other gentlemen of influence in Virginia, (for what precise reason I am not prepared to state,) to be particularly well disposed towards the domestic institutions of the South. There were, however, several distinguished men in Virginia who were decidedly hostile to the pretensions of Mr. Adams, and who made special exertions to shut him out from the confidence of the good people of that State. General Smythe, then representative in Congress from the Wythe district, assailed him fiercely in the public newspapers and in a well-written circular, addressed to his constituents, to which Mr. Adams was advised by his Virginia friends to respond. In the response published by him in 1823, in the columns of the Richmond Enquirer, some extracts from which I have now before me, he vindicated himself with great zeal and energy against the various charges which had been preferred by General Smythe. Before I proceed to read these extracts I will premise that the venerable gentleman who now edits the Union, of this city, was then editor of the Enquirer, and was then, as now, universally recognized as an able, an efficient political writer, perfectly informed in party history, and inflexibly devoted to the principles of the Jeffersonian Democratic creed. He was then living in the enjoyment of Mr. Jefferson's fullest confidence, nor was there a distinguished statesman at that period in Virginia, of the republican school, who did not entertain for him sentiments of the highest respect and confidence, and yield more than ordinary deference to his judgment in all matters involving the welfare of the republican cause. Mr. Ritchie published the address of Mr. Adams in his paper, and accompanied its publication with a short editorial article commendatory of the general views contained therein, declaring the political doctrines of the address particularly suited to the meridian of the "Old Do-

minion." I will now read the extracts referred to:

"Observe that I do not now deny the existence of this authority in the Constitution; but it is a *constructive* power; and at the time when I was called to record my vote upon it, the question was new to me, and new to Congress with reference to the legislative exposition of the Constitution. The principle had not been settled: and it was the first time it had ever been made my duty to act, as a member of the Legislature, upon a question involving the extent of the powers of Congress. I believed, as I still believe, that the Constitution of the United States was a constitution of limited powers. That some of these powers must be *constructive*, I never doubted; but that this construction must itself have some limits I was equally convinced; and I could not reconcile it to my judgment that the authority exercised in this section was within the legitimate powers of Congress conformable to the Constitution. We are the question now a new one, I have no hesitation in saying that I should retain the same opinion and give the same vote. And I am willing now to record it again; and to leave to my country and to posterity the opinion that all the other constructive powers, assumed by Congress from the 4th of March, 1789, to this day put together, are, whether considered in themselves or in their consequences, unequal to the transcendent power assumed, exercised, and granted by that little section.

"It was upon the same principle, a conscientious belief that Congress had not, by the Constitution, the power to exercise the authorities contained in them, that, in the course of the same session I voted against the other acts relating to Louisiana, enumerated in General Smyth 's address to you. They formed altogether a system of absolute and unlimited power, bearing upon the people of Louisiana and exercised by the Congress of the United States. I believed that this power had not been granted to Congress either by the people of the United States or by the people of Louisiana; and when it was assumed by *construction*, I could not perceive *any* limitation to the constructive power which could be *consistently* maintained by those who could find in the Constitution of the United States authority for the exercise of all these powers in Louisiana.

"General Smythe has therefore done me great injustice in drawing from these votes the conclusion that I was governed in giving them either by principles of faction or by hostility to Louisiana. It is well known to those with whom I acted at the time, as well those whose votes concurred with mine, as those who sanctioned by their votes these assumptions of constructive power, that my voice and opinions were *in favor* of the acquisition of Louisiana, and of the ratification of the treaty by which it was acquired. The power to *make treaties* is by the Constitution given to the President, with the concurrence of two-thirds of the Senators present upon the question for their advice and consent *without limitation*. It extends to whatever can form the subject of *treaties* between sovereign and independent nations. Of the power to make the treaty, therefore, I had no doubt, as having been granted by the Constitution. But the power to make a treaty, and the power to carry it into execution are, by the organization of our Government, not the same. The former is merely a transaction with a foreign nation. To have limited that would have been to limit the power of the nation itself in its relations of intercourse with other States. It would have been an abdication by the nation itself of some of the powers appertaining to sovereignty, and have placed it on a footing of inequality with other sovereigns. But the latter, the power to carry a treaty into execution, imports the exercise of the internal powers of Government, and was subject to all the limitations prescribed by the Constitution to the exercise of those powers. In the very message by which President Jefferson communicated this treaty to Congress, after its ratification had been exchanged, he said, "you will observe that some important conditions *cannot be carried into execution* but with the aid of the Legislature." This is a circumstance common to many treaties; and has frequently given occasion to debates in the House of Representatives how far they are bound to sanction, in their legislative capacity, stipulations with foreign nations, solemnly made and ratified by the treaty-making power. But the Louisiana purchase-treaty did, in my opinion, to be carried into execution, require something more. It required the exercise of powers which had not been granted to Congress itself; of powers reserved by the people of the United States to themselves, and of powers inherent by natural right in the people of Louisiana. The union of the two people required the *express* and formal consent of both. So far as the rights of France were concerned, they had been extinguished by the treaty. To appropriate and pay the money stipulated for the purchase of the territory, I believed to be within the legitimate powers of Congress; though even that was a constructive power. But that the social compact, with all its burdens and all its blessings, all its privileges and all its powers, should be formed between the people of the United States and the people of Louisiana, was, according to the theory of human rights which I had learned from the Declaration of Independence, an act, the sanction of which could be consummated only by themselves. The people of the United States had not, much less had the people of Louisiana, given to the Congress of the United States the power to form this Union. And until the consent of both people should be obtained, every act of legislation by the Congress of the United States over the people of Louisiana, distinct from that of taking possession of the Territory, was in my view unconstitutional, and an act of usurped authority.

"My opinion, therefore, was, that the sense of the people, both of the United States and of Louisiana, should immediately be taken: of the first, by an amendment of the Constitution, to be proposed and acted upon in the regular form; and of the last, by taking the votes of the people of Louisiana immediately after possession of the territory should be taken by the United States, under the treaty. I had no doubt that the consent of both people would be obtained with as much ease and little more loss of time than it actually took Congress to prepare an act for the government of the territory; and I thought that this course of proceeding, while it would terminate in the same result as the immediate exercise of ungranted transcendental powers by Congress, would serve as a landmark of correct principle for future times, as a memorial of homage to the fundamental principles of all society, to the primitive sovereignty of the people, and the unalienable rights of man.

"Entertaining these opinions on the 3d of November, 1803, I voted with the majority for the bill appropriating $11,250,000 to carry into effect the Louisiana convention; and in a speech to the Senate upon the passage of that bill, the substance of which was printed in the National Intelligencer of 25th November, 1803, declared at once my approbation of the measure, and my belief that, to carry the treaty into entire execution, an amendment to the Constitution would be necessary. My vote on this bill is recorded in the senate journals of the Senate to which General Smythe has resorted to find his charges against me; but he has not thought proper to notice either that or the printed speech, which, if known to him, leaves him without excuse for representing to you my votes upon the other bills of that session relating to Louisiana, as having been dictated by a spirit of faction, or by hostility to Louisiana.

"On the 25th of November, 1803, as appears by the same journals of the Senate, I moved for the appointment of a committee to inquire whether any, and if any, what further measures were necessary for carrying into effect the Louisiana cession treaty, with leave to report by bill or otherwise. In support of this motion I stated expl citly that the object of it was that the committee should prepare and report for the consideration of the Senate an amendment to the Constitution, and a bill prescribing the form in which the sense of the people of Louisiana should be taken to sanction, in the only form in which I conceived it could lawfully be accomplished, the union of the two people into one—the annexation of the inhabitants of Louisiana to the North American Union, and their accession to all the rights, privileges, and prerogatives, and their subjection to all the duties of the citizens of the United States. On the exposition of these objects for the motion the Senate did not think proper to appoint the committee which I proposed, and the only opportunity left me for recording the principle upon which I acted was by offering the resolutions which I did on the 10th January, 1804, and by voting against all the acts of Congress legislating upon the people of Louisiana during that session.

"Let me repeat that all these questions as to the extent of the powers of Congress were at that time new and unsettled. In forming my judgment upon them, I had recourse only to the faculties of my own understanding, to the letter of the Constitution, to the first principles of society and government, as recognized in our republican institutions, and to the light of the discussions in both houses of Congress upon that occasion. There was no precedent upon the record. The annexation of a foreign people to the North American Confederacy formed a new era in our national annals. The principles upon which that great change in our condition was to be effected, and the forms by which it was to be made lawful, conformably to the true theory of human rights, involved considerations of a magnitude of which we are not yet all aware. The laws of that session relative to Louisiana have very recently been followed as precedents in the annexation to this Union of the territory and people of Florida. In the perfectly regular exercise, and for purposes of the most rigorous justice, of powers identical with those assumed and granted by that little section

which I have quoted, you have recently witnessed scenes against which the halls of Congress, the streets of your cities, the summits of your mountains, and the echoes of your valleys, have resounded with clamors of violated rights and unconstitutional acts of despotism. It was not in the exercise by General Jackson in 1821 of powers so incompatible with all our institutions—it was in the assumption and grant by Congress of those powers in 1803 that the real constitutional question was involved; and it is no small satisfaction to me that I am enabled to refer you to those very notes which General Smythe imputes to unworthy motives for proof that from the first day that I was called to act in your public councils I have held the Government of your Union to be a Government of limited powers; that Congress could not lawfully exercise any powers not granted to them by the people in the Constitution, and that powers in themselves of a transcendental nature cannot be assumed by *construction* as incidental to the expressed powers of apparent import so much more limited than themselves.

"Among the citizens who in 1803 and 1804 voted for all these laws relating to Louisiana, there were some who, upon questions of far inferior magnitude, according to my conception, have been less liberal in their indulgence to constructive powers. It is not for me either to question their motives or to reconcile their opinions with themselves."

Indeed, I think, Mr. President, that all candid men will acknowledge that the vital principle of popular sovereignty, set forth so strongly in this letter of Mr. Adams, is quite as distinctly asserted in the last of those resolutions introduced in the year 1847, by Mr. Calhoun, which, with a view of strengthening my attitude, if possible, in the estimation of the Senator from Florida, I will now read. It runs thus:

"*Resolved*, That it is a fundamental principle in our political creed that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best to secure their liberty, prosperity, and happiness; and that, in conformity thereto, no other condition is imposed by the Federal Constitution on a State in order to be admitted into this Union, except that its constitution shall be republican; and that the imposition of any other by Congress would not only be in violation of the Constitution, but in direct conflict with the principle on which our political system rests."

Now, Mr. President, I think we see here pretty plainly what were the views of Mr. Calhoun, and those acting with him, in 1847, and also what was the doctrine of the Republican party of 1823. At that time Mr. Adams was a member of it, as I have already said, and highly esteemed as such. We see on what principles he acted when in the Senate of the United States. We see plainly that in Virginia, and throughout the Union at large, when there was a great outcry in favor of what is called the "State-rights doctrines," Mr. Adams's letter was recognized as entirely unexceptionable in its character. No man then was considered a madman, or a traitor to the South, who adhered to and asserted the great fundamental principles of civil liberty. To these principles I have been heretofore a devotee, and expect to remain such to the end of my public career; and I will add, that, could I renounce these principles now, or even falter in my support of them, I should feel myself little worthy to represent the noble constituency who sent me here, and who have been pleased to support my humble efforts to serve them upon this floor with a degree of approbation of which one far more meritorious than myself might be justly proud.

I shall not now press upon the attention of the Senate the sound principles of constitutional law contained in this letter of Mr. Adams. It is unnecessary, for he has so distinctly presented them, and so cogently enforced them also, that no man whose mind is properly constituted, and who is friendly at heart to our free institutions, can fail to accord to them his hearty homage and support. But if the doctrines promulgated by Mr. Adams in 1823, as a Republican presidential candidate, are thus entitled to favorable consideration, I should like to know how it happens that we hear gentlemen who profess to belong to the State-rights strict construction school, claiming for Congress not only authority to establish territorial governments, but authority also to enact laws designed to have the effect in the territories of the Union, either of imparting additional force and dignity to rights already amply secured by the Constitution itself, or which, if not so secured, can have no existence at all, for want of a proper compatibility with that sacred instrument. How is it that gentlemen who have been heretofore so jealous of all attempts on the part of Congress to legislate on the subject of African slavery, and who have, with good reason too, professed to fear that any act of legislation upon this delicate subject, however trivial and unimportant in its character, might serve as a forerunner to acts of aggression upon the rights of the South of the most appalling and ruinous nature—how is it, I say, that these very gentlemen, or that even a single one of this class of persons, can reconcile it to his sense of propriety, to ask, yea, to demand, at the hands of Congress positive legislation of a most substantial and vital character, which, if it shall once take place with the sanction of the South, either express or implied, must inevitably draw after it, and without much delay too, a sweeping congressional enactment, which will utterly exterminate our favorite domestic institution, and plunge the whole South in hopeless and remediless ruin? How is it that professed strict constructionists can contend for the exercise on the part of the Federal Government of a power which the most subtle and ingenious reasoner that the republic has ever produced, has never been able to show had the least possible claim to exist, even as an overstrained implication? I confess that I find myself totally incapable of understanding the course of certain honorable gentlemen at this moment, and I do most seriously fear that they are not so fortunate as perfectly to understand themselves; else surely they would not fail to descry the natural and inevitable consequences of their own acts. More especially is the conduct of these gentlemen surprising, when all that they seek to obtain at the hands of Congress, by an unconstitutional enactment, will be so much more easily and legitimately obtained from the territorial governments when they shall have been duly organized, whose solemn duty it will be to afford protection, security, and prosperous vitality to all rights of property of whatever kind or description not incompatible with the Constitution of the United States. This obligation to afford protection to rights of property in general will, of course, have a peculiarly forcible application to those rights of property specially guarantied by the Constitution itself.

Mr. COOPER (from his seat) suggested a remarkable coincidence between the recent speech of General Cass and the doctrine of Mr. Adams's letter.

Mr. FOOTE. Yes, sir, it is true that such coincidence does exist, and I was so much struck with it as almost to feel some surprise at learning from my honorable friend from Michigan that he

had not recently seen Mr. Adams's letter, and that he had indeed no distinct recollection of having ever read it at all. I should have suggested this coincidence myself, but for the fact that I am regarded by some as having an overweening admiration for the distinguished Senator from Michigan, and a very particular sympathy in his political fortunes.

Mr. President, I expect to be assailed on account of my having undertaken thus frankly and unreservedly to declare my views upon this profoundly-interesting and important subject. It is almost impossible that I shall be so fortunate as to escape attack both here and elsewhere. Thank Heaven, though, I am prepared to meet all such hostility; let it but come in a courteous and parliamentary form, and I shall gladly encounter it. My conduct about this whole matter has been open and undisguised, and I undertake to say it has been marked with as much consideration for the opinions and feelings of others as could in reason be demanded. Feeble as are my powers as a debater, I feel that I am ready to defend myself and my opinions against all who may choose to wage war upon either. My motives I know are beyond question, and I do not dread any scrutiny which may be instituted in regard to them. I profess to be a *conservative*, in the most expanded and most exalted meaning of that term. I perceive plainly that *ultraism* in both sections of the Confederacy is beginning to put on an aspect decidedly menacing. I have learned through the Union of yesterday that a systematic effort will be probably made to induce the Nashville Convention to demand certain constitutional amendments, known to be impossible of attainment, as a *sine qua non* to a settlement of existing differences between the North and the South. But for the asserted respectability of the gentleman to whose letter in the Union I have just referred, and the fact of its publication having been made under the auspices of a highly respectable and influential member of Congress, I should not have deemed it necessary thus to notice its appearance at all. But, looking upon the positions assumed in that letter to be of a nature highly objectionable, and even mischievous, I have felt bound not to pass it by without notice, though I certainly now notice it without the least intention of saying more than that I solemnly protest against its demands. Mr. President, I confess that I am ambitious of coöperating with patriotic men of all parties at this fearful and perplexing crisis, in preserving the safety and honor of the South, without endangering in the least the safety and honor of the North, and in preserving and perpetuating our free institutions for the benefit of countless generations yet to come. I wish to assist in reëstablishing those ties of fraternal affection which once so strongly bound together the whole body of our countrymen, which have been so alarmingly enfeebled of late, and which, it is to be feared, are at this moment in danger of utter extinction. This is the whole complexion and extent of my ambition, and I devoutly beseech the Almighty that he will vouchsafe its gratification. Let me be loaded with denunciation, derision, contempt, and even infamy; and yet shall I be able to endure it all without a murmur, provided that it shall be at the same time admitted by my adversaries that my happy country and its free institutions have been rescued, in part by my poor exertions, from the overthrow with which they are both now threatened by sectional jealousies, by fierce and fiery fanaticism, by untempered zeal, and it may be in part, also, by a selfish and unscrupulous ambition for local ascendency and influence. I am aware, sir, that it has been predicted that the course which I am pursuing will not be approved of by my own constituents. If my friends feel any apprehension on this point, I beseech them to be of good cheer. If my enemies are anticipating the discredit which they suppose is about to fall on me from being deprived of the countenance and support of those patriotic freemen who have made me all that I am as a public man, and who have generously placed me upon a theatre of action where I might mingle my energies in liberal rivalry with those eminent patriots and sages and heroes of the Republic whom I see around me, for the promotion of the general happiness, and the consummation of our national glory;—I can assure them that they will be doomed to utter disappointment. I do not in the least degree doubt that my conduct here will stand approved by those to whom I am chiefly responsible; but even if it be my fate to incur condemnation where I have hoped for approval, I shall never regret for an instant what I am now doing; and I feel authorized to close this hasty and irregular speech with a prediction that the indications now so apparent everywhere in favor of the plan of settlement before us will continue to multiply upon our vision, until the acclamations of twenty millions of people shall be heard to break forth upon the consummation of that scheme of *peace*, of *conciliation*, and of *compromise*, which is to mark the year 1850 as the most happy and most glorious in our national annals.

Monday, *May* 20, 1850.

In reply to the speech of Mr. Clemens,

Mr. Foote said: I regret very much, Mr. President, that I feel compelled, in mere self-defence, to occupy again the attention of this body, deferring, as I certainly do, most profoundly, to other gentlemen of the Senate, far better qualified than myself to elucidate the great questions now under consideration; but, sir, all must see that I could not remain silent without incurring more or less of discredit, and being subjected to serious misconstruction, both as to my acts and motives. I could not fail to respond to a part, at least, of what has fallen from the lips of the honorable Senator from Alabama, [Mr. Clemens,] without feeling myself to be wholly unworthy of occupying a place in this august legislative assembly. But, Mr. President, I beg to assure the Senate, and the country, that I entertain such an exalted estimate of the great objects for which we are now struggling, that I have resolved, under no circumstances whatever, to be drawn into controversy merely of a personal character, whilst this measure of compromise is pending; nor shall I be induced, by any provocatives which can be administered, to turn aside from the consideration of those grave matters which should engage our whole attention, for the purpose of participating in such idle trivialities as have in some way or other lately found their way into this debate. No unkind feelings have been awakened in my bosom upon the present occasion by the honorable Senator from

Alabama, nor have I at any time cherished feelings towards him which could induce me to seek that sort of heated and almost discourteous disputation, for which it would seem that the honorable gentleman has shown such a decided proclivity. The path of Senatorial duty lies plainly before me, traversing the platform of the Constitution, midway between ultraism in the North and in the South; and I shall endeavor to tread it firmly and calmly, without deviating either to the right or to the left, and without faltering before any obstacles which the ingenuity of honorable gentlemen may conjure into existence, or which the spirit of vain and fruitless controversy may contrive for my annoyment. The relations of friendship heretofore existing between the honorable Senator from Alabama and myself, and which he has been kind enough to recognize as still existing, will not be broken up, or even temporarily suspended by any act of mine; nor will it be my fault, if, after this debate, we shall not be even better friends than before; though I deem it my duty to defend myself, with such ability as I possess, against the assailment which has been practiced upon me—to rescue my character as far as possible from the charge of gross and ridiculous inconsistency which has been preferred, and to make good also some of those positions heretofore assumed by me, and which have been so fiercely assailed by the Senator from Alabama. I shall seek to refrain entirely from the employment of those terms of invective of which we have had so remarkable a specimen supplied to us this morning. I shall denounce no man as a traitor to the South, because he chances to differ with me as to the general character of the measure before us; nor shall I, even by innuendo, endeavor to throw the odium of *treachery* to the rights and interests of the South upon any southern Senator who may conclude not to vote for the bill after it shall have undergone such amendment as it may be supposed by its friends to need. Nor shall I even charge the influence of bad motives upon those gentlemen, if any such there should be, who may be found hereafter coöperating with the adversaries of the South in laying the bill upon the table, or in amending it so as to bring about its defeat in some indirect mode. No, sir, I repeat, I shall call no man a traitor for doing any of these things, and I regret that the honorable gentleman from Alabama has thought proper to employ language towards myself which would seem to imply a belief that my own conduct deserved so harsh an epithet.

Mr. CLEMENS. I called no man a traitor, either directly or indirectly. I was speaking of myself.

Mr. FOOTE. I am very glad to hear the disclaimer. From the manner in which the honorable Senator expressed himself I could hardly put any other construction upon his words than that which I affixed to them. The honorable Senator from Alabama, in speaking of a certain letter-writer having so far overvalued my poor standing as a public man as to give me credit for having acquired a national reputation, said that it was quite easy to establish the sort of national reputation thus attributed, by the aid of certain letter-writers, *if one chose to prove a traitor to the interests of the South.* These were possibly not the precise words employed by the honorable Senator; but I understood him to say as much as this in substance.

Mr. CLEMENS. I was speaking of myself and said that I could do it.

Mr. FOOTE. I am glad to hear the explanation, for I must say that at the time it was uttered I supposed it was an allusion to my[illegible].

Mr. CLEMENS. Not at all.

Mr. FOOTE. I am rejoiced to hear that such is the fact; though I think my friend from Alabama will find that he was not altogether so circumspect in his phraseology as he generally is. But his present disclaimer of all unkind meaning is perfectly satisfactory. The honorable Senator from Alabama has supplied us with a new example of oratorical self-repetition which, to me at least, was not a little striking. He has read, in our hearing, quite copiously from a harangue of his, some time since delivered in this Chamber, and which, at the time of its delivery, awakened much attention both here and elsewhere. Whether the honorable gentleman may not have been actuated as much by a desire to rescue so brilliant a specimen of rhetoric from oblivion, as by a wish to edify us upon the points now under discussion, I shall not undertake to decide. I do not object to this reappearance among us of the speech of my honorable friend, nor do I even regard its being delivered a second time as at all in violation of the laws of just criticism. Certain it is that he is not without high authority in support of what he has done in the matter; since we all know that Demosthenes delivered one of his Olinthriac orations a second time, by a different name, after an intervening period of some ten or fifteen years. A distinguished orator of our own country, now a member of this body, is known to have delivered some twelve or fifteen pages of a speech on popular education in New England, twice also; and the numerous admirers of this gentleman's rare intellectual powers will accordingly find the same matter printed twice in the three volumes of his speeches as a portion of two distinct orations. My honorable friend from Alabama, then, may well defend himself against the charge of having been at all indelicately egotistical on this occasion, in reading so copiously from his own recently-delivered speech, by falling back for authority upon the high examples which I have just cited. Really, though, I feel authorized to complain that my honorable friend was not satisfied with being allowed to reproduce his speech again among us, but that he has undertaken to hold me responsible for all the views contained in it. Now, as I make a great many speeches myself, and most of them without special preparation of any kind, I think that it will be regarded as quite sufficient by all liberal-minded men to hold me responsible for all my own oratorical indiscretions, releasing me from any responsibility on account of the sins, either of omission or commission, in this line, which may chance to be committed by others.

The honorable Senator, by way of making out a case of rank inconsistency against me, averred that I had sanctioned his speech as read, and then declared that he had no doubt that I would now pronounce it altogether treasonable. In both these points, as it seems to me, the Senator is laboring under some delusion. In the first place, I have certainly not the least recollection of approving the views contained in the honorable gentleman's speech at all, though it is certain that I felt gratified, as one of his early friends, that he had made

so brilliant an exhibition in our body. Nor do I now recollect that I ever read the speech, or any part of it, in my life. I certainly heard it, and was pleased with it, so far as I was able to catch its meaning. In the second place, I am by no means prepared to denounce that portion of the honorable gentleman's speech which has been read this morning as at all treasonable; and, indeed, I am rather inclined to think that, making allowance for its being a little unduly burdened with fantastic figures of speech, and swelling words of sound and fury, I should even now, if formally called upon to pronounce concerning the views contained in it, be inclined to express an opinion not altogether unfavorable. I am sure that I thought the speech at the time quite skillfully prepared for effect, and particularly calculated to produce an impression upon the audience to whom it was addressed; and if I uttered more or less of commendation upon it and its author, I doubt not that it was sufficiently deserved. It will be discovered that what the honorable gentleman has been kind enough to read refers to California exclusively, and does not at all relate to such a compromise or general adjustment of the questions in dispute between the North and the South as that which is now under consideration.

The next ground upon which the honorable gentleman thought proper to complain of me was, that I had undertaken to speak of Mr. Adams as a republican statesman, and to quote from his letter of 1823 certain passages, as declarative of sound and approved republican doctrine. Mr. Adams is pronounced by the Senator from Alabama to have been quite an uncertain political guide, inasmuch as he afterwards became an abolitionist. Now, I confess that I cannot exactly perceive what Mr. Adams's avowal of abolition doctrines, some twenty years after, has to do with his political opinions in 1823. If what Mr. Adams wrote in 1823, and what seems to have been generally sanctioned by the Republican party of that period, cannot now be commended without exposing one's self to the charge of feeling more or less sympathy with the abolitionists, then indeed I committed a gross error in referring to Mr. Adams at all. But I imagine that few besides the honorable Senator from Alabama will find much difficulty in discovering how it is possible that a man may be quite a safe guide at one period of his life, when writing for the purpose of securing the confidence and respect of a patriotic and intelligent party, and yet become subsequently an object of distrust and condemnation, when afterwards, having the reins of authority suddenly torn from his grasp, and being thrown into comparative obscurity, he becomes the wretched agent and ringleader of a noisy and unprincipled faction. The Senator from Alabama seems to me to have grossly underrated the intelligence of the southern people, if he supposes that by such ingenious expedients as he has adopted, he can succeed in awakening the least prejudice against me.

Another accusation has been presented against me by the honorable Senator from Alabama, which is really amusing. He accuses me of being a supporter of the present Administration. This accusation is accompanied with a charge against the Senator from Kentucky, [Mr. CLAY,] that he is inimical to the Administration. This friendship on my part to those in power, and the alleged hostility of the Senator from Kentucky, are asserted to have been exhibited in connection with the measure now under consideration. All this must be a little surprising to those who are aware that the Senator from Kentucky and myself are recognized by the Senator from Alabama, in the very speech which I am now answering, as "co-laborers" in support of the scheme of compromise now in progress. I confess that I am not able to perceive how one of us could evince friendship and the other hostility to those in power, by supporting the self-same measure, and by declaring precisely the same general views in support of it.

But the honorable gentleman supposes that I must be in favor of the famous *non-action* policy, if I doubt the power of Congress, upon a strict interpretation of the Federal Constitution, to establish a territorial government at all. Well, sir, the honorable Senator from Michigan, [Mr. CASS,] and other Democratic worthies of almost equal consideration, will have to be recognized also as supporters of the non-action policy, since they have, as well as myself, declared that no such power as this of establishing territorial governments seems to them to have been given to Congress by the Constitution, and that the exercise of it could only be excused upon the ground *of overruling necessity*.

Upon this point the honorable gentleman thought proper to be quite facetious, and observed, with an *originality* quite imposing, that politics, like misery, sometimes makes strange bedfellows. I thank the gentleman for the hint, and will beg leave to suggest to him that I fear that this fine saying of his will presently become more applicable to others than to myself, when they shall be found coöperating with Abolitionists and Free-Soilers in their efforts to defeat this bill. So long as I shall continue to vote with the high-toned patriots with whom I am now acting, I shall not fear the application of the maxim, "*noscitur a sociis.*" I hope that my honorable friend from Alabama will be found in the sequel of this contest to be equally free from suspicion on account of the objectionable opinions of those with whom he may be found acting.

But, really, does the honorable Senator not perceive the injustice of charging me with favoring the non-action policy, when he considers that I am now earnestly urging the most extended and comprehensive action which can possibly take place in the adjustment of all the questions growing out of slavery? Let me ask him if he does not apprehend that he may himself be accused, and with effect too, of favoring this same non-action policy, by those who shall ascertain that he, with his eyes perfectly open to the consequences likely to ensue, has struggled to defeat this measure of compromise—knowing, as he could not but do, that if he succeeded, the non-action policy would be necessarily acted upon—as California would then, in all probability, be admitted as a separate measure, and no territorial governments be established in Utah and New Mexico, until the people of these territories should be ready to claim admission as States? Let me assure my friend, in all solemnity, that the discerning people of the South will not fail to understand this whole matter, and that they will certainly hold those to a rigid responsibility who shall take it upon themselves, from whatever motives, to favor

the adoption and enforcement of this wretched non-action policy, which is to keep open the distracting questions which have so long agitated the country for an indefinite period of time, give a most baneful permanence to the military government now in operation in New Mexico, and be productive of other consequences equally to be deplored by all good patriots, if they shall be brought upon us.

But, sir, my honorable friend from Alabama has undertaken not only to accuse me on this occasion of having been guilty of various grievous political offences, but he has taken it upon himself to play prosecutor, court, and jury, in a very regular manner indeed. He has undertaken "*to try*" me first, as he says, by the "congressional record," and then by speeches "deliberately prepared and deliberately revised," which last I understand to be in part his own speech already referred to, and which he avers that I sanctioned fully, and in part speeches delivered by myself. Well, sir, I hope, if my honorable friend, who has thus subjected me to trial, should be manage to convict me, will at least not subject me to hanging or other severe capital punishment.

In reference to the extract read from the honorable Senator's own speech, I have said already, that I have not found any particular fault with it, though, as I have already stated, I have never yet read the speech of which it constitutes a part. In relation to my own speeches, I have heretofore challenged the production of any proof of inconsistency upon the question of admitting California; and I now feel justified in asserting, after the elaborate effort made by the honorable gentleman to put me at variance with myself, that he has read not a single extract from any of my speeches, numerous as they have been, from the beginning of the session up to the present hour, which I do not now sanction, and which I could not now reutter, without feeling myself to be in the least possible danger of being accused by any one, not under the dominion of personal prejudice, or strong adverse feeling of some kind, of having been guilty of the least inconsistency whatever in relation to this question of admission. Always have I heretofore declared that, to admit California as a separate and distinct measure, unaccompanied with such a settlement of all the questions growing out of slavery as would be calculated to secure compensating advantages of some kind, and among them the inestimable blessing of social quiet and freedom from annoyment for the future, would be an act so unjust, so insulting, and so grossly iniquitous as to justify the South in resorting to any means of resistance necessary for the vindication of her honor and the establishment of her domestic security, upon foundations too stable to be hereafter disturbed or put in danger. But, whilst entertaining and expressing this view of the subject, I have as uniformly maintained, up to the present moment, that the admission of California, whatever informalities may have occurred in bringing about her present political organization, provided the measure of admission should constitute only one portion of a general scheme of adjustment and compromise, upon the whole satisfactory in its character, would, in my judgment, not only not be serious cause of complaint to the South, but might, with some plausibility at least, be hailed as a measure of high national importance, and entitled to command the general approval of the country.

I know that I have entertained no other views since the California question first arose for consideration. Let me notify the honorable Senator from Alabama of one or two facts in my own history on this subject, of such a nature that when he learns them, he will himself be perfectly persuaded that he has done me the most cruel injustice in accusing me of shifting my position in regard to the act of California admission. It has now been more than two years since I urged the expediency of at once providing for the admission of California as a State in the year 1850. I believed then, and so announced here, that the population of California was likely to increase very rapidly, and that before the year just named, she would have a population sufficiently large to be entitled to claim admission as a State. It was my opinion, that if we thus provided by law for her eventual admission, the agitation of the slavery question in connection with the formation of her State Government would be probably precluded, and that when she should apply for actual admission, her constitution being silent on the subject of slavery, no sectional feeling would be likely to array itself against the measure; so that the people of that distant region would be thus allowed, in their own good time, to arrange this delicate matter according to their own discretion. In this view of the subject, I was decidedly opposed by my southern friends here, and I desisted. Not entirely discouraged, I urged the honorable Senator from Illinois, [Mr. Douglas,] just before the beginning of the last session of Congress, to introduce a bill for the admission of California; which he will be recollected to have done, and which he would have done, for aught I know to the contrary, had my application to him never been made. This measure was opposed most strenuously, both from the North and the South, and ultimately failed.

Well, sir, not yet entirely discouraged, and still desirous of seeing California brought into the Union as a State—a measure which I could not help foreseeing could not be long postponed, at any rate—I resolved to make an attempt to connect the measure of admission, if possible, with a proposition to establish territorial governments in New Mexico and Deseret, and another for the establishment of a new State in Texas, east of the Colorado or Brazos rivers, with a view to keeping up something like an equilibrium in our system; and being particularly desirous, for obvious reasons, that this scheme of fraternal settlement should originate with southern men, I wrote to Mr. Calhoun during the late summer, and urged upon him that he should himself bring forward this scheme of adjustment—being exceedingly desirous that he should secure to himself that increase of personal popularity and political influence which I confidently believed would accrue to him as the originator and chief patron of this great measure. Unfortunately for the South, and for the country, as I shall always think, Mr. Calhoun had resolved to take ground in opposition to the admission of California, and not only declined moving in the matter himself, but earnestly persuaded me to desist from all action in regard to it until we could meet and confer upon the subject, on our meeting in Washington, at the commencement of the then approaching session of Congress. A friend of my own, and a devoted friend of Mr. Calhoun, now pres-

ent. (Mr. John S. Barbour, of Virginia,) saw Mr. Calhoun's letter, in which he declined taking the course which I had thus solicited him to take; and he will be ready to attest, at any time, the deep mortification which I felt at Mr. Calhoun's refusal to pursue a course which I confidently believed would secure to him the glory of being recognized in all coming time as the PACIFICATOR of the Republic.

Thus disappointed, I renewed my efforts during the first days of the present Congress, to employ the measure of Californian admission as the chief element of a plan of compromise, which was, as I then hoped, to save the South and the Union. But I confess, among southern members of Congress, I met with so much discouragement that, being unwilling to do anything to divide the South, in her then exposed and imperilled condition, I relinquished the design which I had formed, by the introduction of a single measure, such as the bill now before us, to accomplish that great work of adjustment which we at last see almost consummated. Then it was that, after resisting the resolutions introduced by the honorable Senator from Kentucky; which I then thought, and still think, however well intended, as doubtless they were, were decidedly unjust to the South in several particulars then specified—I resolved, on consultation with several sage friends, to move the raising of a special committee, for the purpose of maturing some such scheme of adjustment as the bill now before us, the great outlines of which have been perfectly familiar to all intelligent minds in every part of the Republic for more than three months past. Meanwhile we have had to pass through a severe struggle in order to raise the special committee, and to keep the various parts of the plan of compromise proposed in a state of conjunction, with a view to securing the more certain attainment of the great result so much to be desired. I shall not go into particulars now in regard to the scenes just alluded to; they are before the country, and will doubtless be properly appreciated. At last we have reached almost to the end of our labors. California has not been admitted as a separate measure. Territorial bills embodying the Wilmot proviso have not yet passed. A bill for the admission of California as a State, as part of a general scheme of settlement, is before us. A proposition to establish territorial governments for New Mexico and Utah, *without the Wilmot proviso*, (all that the South desired on this head twelve months ago,) is before us also as a part of the general plan of compromise. A proposition for the establishment of the Texas and New Mexican boundary question upon satisfactory principles is also a part of this great plan of pacification. An efficient bill for the restoration of fugitives from labor is also recommended to us for adoption, in connection with the other measures just specified. For all these have I been laboring, in a subordinate capacity, truly, but zealously, actively, and without intermission, from the beginning of the session up to the present moment; and yet my friend from Alabama accuses me of the most shameful changes and inconsistencies. Thank Heaven, though, all the evidence which he has attempted to array against me has been of a nature to enure to my defence, instead of operating to my injury. Every extract from my speeches which he has read is in absolute harmony with my present attitude; and so uniform have I been in my language on this great subject, that I am really almost ashamed of having varied so little my phraseology in the twenty or thirty speeches I have made in the hearing of the Senate. No admission of California, as a separate and substantive scheme—the admission of California, as part of a general scheme of compromise, embracing the establishment of territorial governments, *without the Wilmot proviso*, has been my constant cry, from the first Monday of last December up to the very day which is now passing over our heads. Indeed, my friend from Alabama is perfectly welcome to press this, his chief accusation against me, just as far and as long as he pleases. I feel that I am absolutely secure against all that he can say upon this subject.

But the honorable gentleman alleges again that on the day when I introduced my territorial bill here, and spoke in answer to the honorable Senator from Missouri, who sits over the way, [Mr. BENTON,] I asserted that my hopes of compromise were then almost extinct. And he asserts that I furthermore declared that the offensive resolutions, which had been then recently adopted in Vermont, and several other States of the North, on the subject of slavery, should prevent any southern member of Congress from bringing forward a proposition of compromise, and that the first compromise proposition should come from the North. This is all true; but yet it is not true that I have been guilty as charged of the inconsistencies imputed to me, in afterwards introducing a plan of compromise, under circumstances not at all changed. It is even not true that I have introduced any plan of compromise at all. My answer to all this will be equally as effectual as anything which I have yet said. In the first place, I have simply proposed a special committee for conference and consultation. I was not, as the honorable member well knows, even a member of the committee of thirteen, by whom this excellent scheme of adjustment was matured and reported. In the second place, I have to say that my hopes of eventual compromise, so nearly extinct at the period referred to by the honorable Senator, were afterwards greatly revived by the noble conciliatory speech delivered here by the honorable Senator from Massachusetts, who sits nearest me, [Mr. WEBSTER,] and who, though perhaps making no declaration which was absolutely new, nor going further in any material respect than several Democratic Senators from the North had previously gone in acknowledgment of southern rights, yet presented such a *tout ensemble* of equitable propositions of various kinds, portrayed in his own graphic and imposing manner—such a comprehensive and practical plan of pacification and settlement, and appealed so powerfully to the consciences of our northern brethren, and their love of country, that I venture to assert that there was no southern man who either heard him, or who read his speech after its delivery, who did not feel that new ground of hope had been supplied, and that the door of compromise had been at last opened in a most formal manner by the hand of a northern man, whose peculiar attitude in the country was such as to enable him to do all for the redress of our wrongs, and for our exemption from future aggression, which he seemed so earnestly to desire. Then it was, I confess, that my own hope of compromise revived; then it was, that, without violating any antecedent declaration,

I should have felt justified, though a southern Senator, in proposing terms of adjustment; which I did not do, though—contenting myself with urging without intermission my motion for a special committee. Surely my friend from Alabama will himself perceive, after this explanation, that he has done me great injustice in charging me with offering terms of compromise, after I had declared that no southern man could do so without disgrace.

But the honorable gentleman alleges that, after denouncing the plan introduced here by the Senator from Missouri [Mr. BENTON] for the cession of a portion of the territory of Texas to the United States as being unjust and injurious to the South, and calculated to extend the dominion of *free soil*, I am now willing to do the same thing—as he imagines is proved by my support of this bill. Sir, the honorable Senator seems to me to have examined this matter but very superficially indeed, else he never could have urged this accusation against me. He overlooks several material facts, of which I will take leave to remind him. The first is, that the bill of the Senator from Missouri was a bill of cession simply, and supplied no safeguard of any kind against the Wilmot proviso, nor recognized, in the least degree, as I understood its provisions, and as I yet understand them, the validity and binding force of the Texan compact of annexation. Now, this same compact has embodied in it a principle of compromise in regard to slavery, which secures the entrance of that institution into all the territory proposed to be ceded which is south of the line of 36° 30′ north latitude. The omission to recognise the continued operation of this principle, I was apprehensive might invite the advocates of the Wilmot proviso to make an effort to apply it to all the territory which Texas should be induced to transfer to the United States. This deficiency is fully supplied by the report of the committee, which recognises, in the most emphatic manner, the articles of Texan annexation, as an absolute and irrevocable compact in all its parts; including, of course, not only the provision of four additional States within her limits, but the principle of compromise in regard to slavery likewise. To show what was my precise objection to the proposition of the Senator from Missouri, it is sufficient to glance for a moment at a portion of my speech in opposition to it which the honorable Senator from Alabama has done me the honor to cite on this occasion for the purpose of convicting me of inconsistency. Speaking of the bill of the Senator from Missouri, I said:

"The bill now brought forward, as will be perceived by those who will examine it, nullifies this Missouri compromise principle in all the territory proposed to be purchased, and every acre of it is placed in the same plight and condition precisely as California and our other recently acquired possessions."

Speaking afterwards of my own territorial bill, as it was originally draughted, I said:

"I proposed to pay to Texas a specific sum, just one-half of the sum now proposed by the Senator from Missouri, for her ownership of the public lands situated in the country commonly called New Mexico, north of the line to be run in an easterly direction from the Paso del Norte to the headwaters of the Red river; cautiously reserving, though, to the territory in which the right of property in a portion of the public lands was thus to be purchased, the principle of compromise embodied in the resolutions of annexation. This *reservation*, it will be at once perceived, is an arrangement which cannot be dispensed with without incurring the risk of immediately multiplying the number of free States, and deeply endangering the whole southern section of the Union.

"This I had resolved to offer as a *new scheme of compromise*; which, with the establishment of a territorial government in New Mexico, in Deseret and California, and the ultimate admission of California as a State, when freed from her present unfortunate organization, I hoped might tend to settle the vexed question of the Wilmot proviso for ever."

Yes, sir, I insisted then that no scheme of cession should be proposed to Texas which did not *cautiously reserve to the territory in which the right of property in the public lands was to be purchased the principle of compromise embodied in the resolutions of annexation;* this very thing was done by the report of the committee; and yet the honorable Senator from Alabama can see no difference in this respect between the bill of the Senator from Missouri and the present one. Well, sir, if I am not so fortunate as to satisfy the honorable Senator from Alabama on this point, I hope to have better luck with persons a little less prejudiced, and not quite so much inclined to detect inconsistencies which have no existence except in his own imagination.

There were various other topics descanted upon by the honorable Senator from Alabama, upon which I should be willing to offer a few remarks, did I think it at all necessary. But I shall endeavor to get through the remainder of the disagreeable task imposed upon me in as concise a manner as possible. Two other matters there are, though, which I cannot consent altogether to pass by. The honorable Senator, in order to make out a case of inconsistency against me, undertook to bring forward a certain proviso, which he gravely told us was moved in the House of Representatives in 1847, and passed by the concurrent votes of all the southern members of that body. He read this proviso to us for the purpose of showing that southern Congressmen, only three years ago, all agreed to support a proposition similar in its character to the one demanded by the Senator from Florida on last Thursday; that is to say, claiming special and additional protection from Congress to southern rights in the territories; and yet, after all, it turned out, on the showing of the honorable Senator from Georgia, [Mr. BERRIEN,] that no such proviso had, in fact, ever passed either House of Congress, and that it was only an amendment which had been reported from the Committee on the Judiciary in the Senate, and never acted upon at all anywhere. I recommend to the honorable Senator from Alabama to be a little more particular hereafter in the ascertainment of historical facts before he ventures so boldly into the arena of controversy as an accuser.

Again, the honorable Senator, with a view of still further confirming his charge of inconsistency, indulges in a sally of humor which he, at least, seemed to regard as of a character quite entertaining to his audience. These are his words:

"Not long since, Mr. President, the Senator from Mississippi and myself were pulling de by side in the same traces. I must add, also, that I found him so fiery a yoke-fellow, I was nearly broken down in trying to keep up with him. Now we are as wide apart as the poles."

Well, sir, it is even true that the gentleman from Alabama and myself were once closely associated here, and I anticipated much harmony and political good-fellowship with him. To use his own striking figure of speech, we pulled for a few weeks very quietly together in the same traces. Whether the gentleman was nearly "broken down," as he complains, in trying to keep up with

me, I am certainly not prepared to decide; nor will I undertake either to decide whether or not he has in point of fact *broken down*, as he styles it, from any other cause. But this I do know, and the whole Senate will well recollect, that the first and only occasion of disagreement between the honorable gentleman and myself which has arisen here, previous to the present occasion, was when he undertook one day, not less to my surprise than to my chagrin, to denounce the whole northern Democracy as enemies to the South; among whom the South has as bold, honest, persevering, and faithful friends as she can find within her own limits. When my honorable friend thus fairly kicked himself out of the Democratic traces, I interfered for the purpose of assuaging his fiery impetuosity, and curbing his unprofitable rage. I opine that if we are now as far as the poles asunder, it is not so much my fault as his own; but I am willing to leave this delicate point to be decided by those who are most familiar with the facts of the case.

And now, Mr. President, let me conclude by appealing to my honorable friend from Alabama, and such other of my southern friends as have resolved upon coöperating with him in his efforts to defeat this plan of compromise, and beseech them to desist before it shall be too late for them to retrace their steps, and avoid the deleterious consequences of their acts. I beg them to bear in mind that they must vote for this compromise, or they must sustain the policy of *non-action*. They must agree to the admission of California, coupled with certain compensating advantages of inestimable value, or they must prepare to see California come in alone; the territories without governments; the Texas and New Mexico boundary line unsettled; and the fugitive slave bill (the only truly efficient bill of the kind ever yet devised) subjected to defeat. Let me ask them if they are prepared to contribute to this direful result? Are they willing to mingle their energies with those of the worst enemies of the South in bringing about this state of things? Can they expect to awaken in the South a feeling of indignation against those who shall have contributed to bring California into the Union without any countervailing advantages—who shall have aided in introducing two additional votes, adverse to southern interests, into each House of Congress, upon all the questions connected with the subject of slavery which will be left unadjusted,—can they expect to excite the people of the South to measures of stern resistance against the enemies that shall have coöperated for their degradation and ruin, without being compelled themselves to submit to hear the language of fierce and blasting rebuke for not warding off these hideous evils when they had it in their power to do so? I menace no man; I have no right to do so; but I greatly overrate the sagacity of the people of the South, if they do not easily understand this whole proceeding, and if they shall not, in the case described, if it ever shall arise, prove themselves capable of rewarding appropriately those who shall fail to understand their duty as Representatives and Senators at this trying crisis; or, understanding it, shall, from any motives, decline its performance. Let no man rely upon the Nashville Convention for extreme remedies. That wise and patriotic body—as I do not doubt it will prove itself to be—will never, under any monitions which its members may receive from Washington, or from any other quarter, be persuaded to demand the adoption of impracticable alterations in the Federal Constitution, for the redress of grievances, the removal of which it is now easy to obtain by the ordinary process of legislation. The dark and baleful spirit of disunion cannot find its way into that noble assemblage of patriots and statesmen who will shortly hold high council for the preservation of the South and of the whole Republic. I predict that no recommendation will come forth from that convention of a nature to raise the least obstacle to an equitable adjustment of all pending questions. I venture to prophesy in advance that all the deliberations of the body will be characterized by moderation, by good sense, by pure love of country, an inflexible devotion to southern rights, a sincere regard for the union of these States, and an anxious desire to aid the two Houses of Congress in restoring the blessings of peace, concord, reciprocal confidence, and fraternal feeling, which alone are now wanting to make us the happiest people that the sun ever shone upon.

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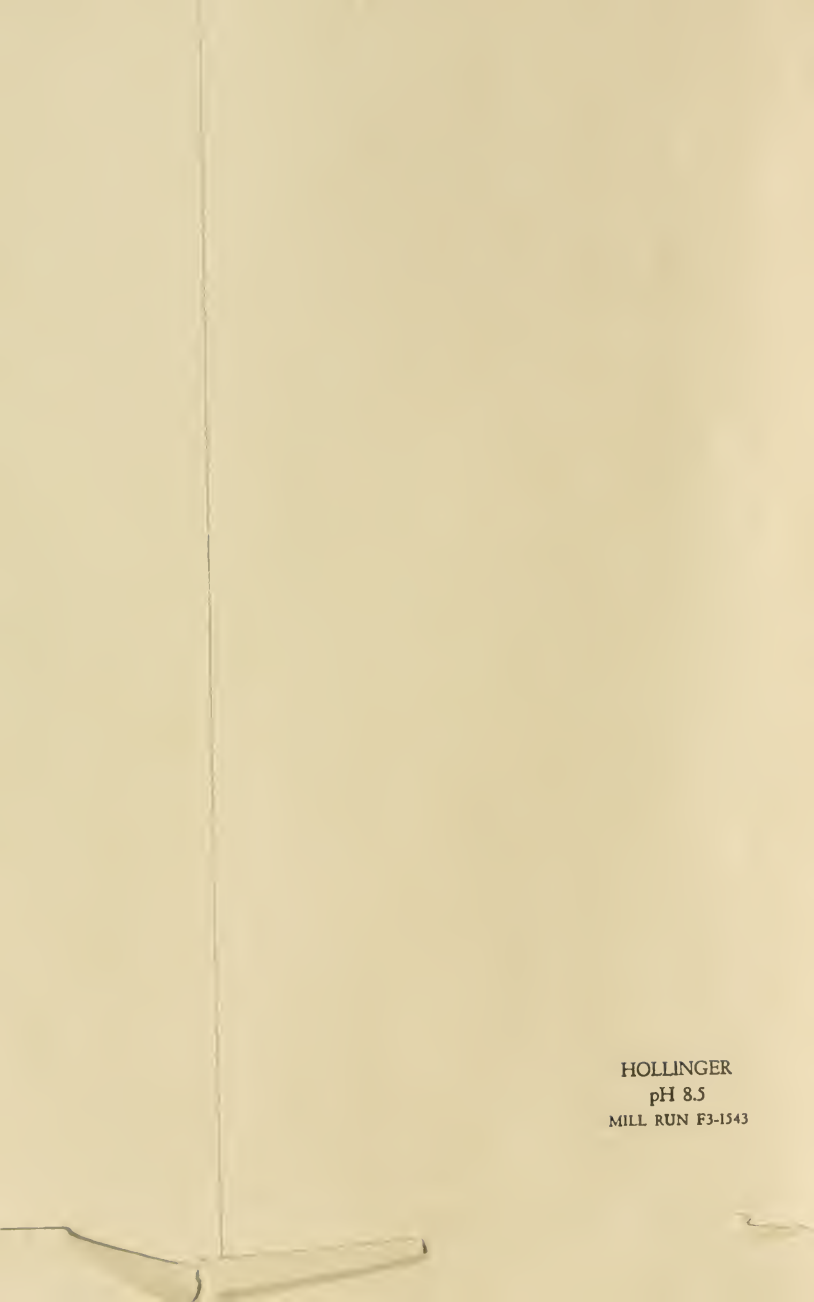
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